

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

ROBERT HANCHER, IV, : Case No. 3:11-cv-319

Petitioner, : District Judge Walter H. Rice
vs. : Magistrate Judge Michael J. Newman

WARDEN, WARREN :
CORRECTIONAL INSTITUTION,

Respondent. :

ORDER TO RESPONDENT

The above-captioned case is pending before this Court on a petition for a writ of *habeas* *corpus*. Petitioner was convicted in the Montgomery County, Ohio Common Pleas Court in Case Number 2008 CR 03039/2, and appealed to the Montgomery County, Ohio Court of Appeals in Case Number 023515.

Respondent did not file any state court transcripts -- stating (1) the recording of the suppression hearing had not been transcribed; and (2) Respondent was not in possession of the trial transcript. *See* doc. 9 at PageID 68. Upon the Court's review of the docket sheet for Montgomery County, Ohio Court of Appeals Case Number 023515, however, it appears a transcript was filed in August 2009. *See* Appendix A.

In order to fully analyze Petitioner's *habeas* petition, this Court wishes to review the state court transcripts for the suppression hearing and trial proceedings, if they are available. Rule 5 of the Rules Governing Section 2254 Cases permits a federal *habeas* court to order Respondent to furnish state court transcripts which it deems relevant to the *habeas* proceeding. Accordingly, the Court **ORDERS** Respondent to file these transcripts -- or, alternatively, report to the Court why

the transcripts cannot be filed -- within **10 DAYS** from the date of this Order (*i.e.*, on or before **April 8, 2013**).

IT IS SO ORDERED.

March 28, 2013

s/ **Michael J. Newman**
United States Magistrate Judge

APPENDIX A

Montgomery County Ohio

Clerk Of Courts

Gregory A. Brush

Public Records Online System Version II

CA 023515 - STATE OF OHIO Vs ROBERT HANCHER

IMAGE DATE ENTRY

| | | |
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| | 11/09/2011 | TRANSCRIPT OF PROCEEDINGS FILED VOL V |
| | 11/09/2010 | ENTRY FROM THE SUPREME COURT FILED DECLINING JURISDICTION AND DISMISSING APPEAL. |
| | 07/26/2010 | COPY OF NOTICE OF APPEAL TO THE SUPREME COURT FILED BY APPELLANT ON JULY 16, 2010. Attorney: NAZZARINE, SCOTT R (0079819) |
| | 06/15/2010 | RECEIPT FILED WHEN PAPERS RETURNED TO ORIGINAL COURT |
| | 06/15/2010 | NOTE - ALL ORIGINAL PAPERS RETURNED TO RECORDS DEPT |
| | 06/04/2010 | FINAL ENTRY FILED |
| | 06/04/2010 | OPINION FILED AFFIRMING JUDGMENT. |
| | 02/05/2010 | MAGISTRATES ORDER FILED. APPELLANT'S REPLY BRIEF SHALL BE ACCEPTED AS FILED ON FEB 4, 2010. |
| | 02/04/2010 | BRIEF OF APPELLANT FILED Attorney: SIRKIN, H LOUIS (0024573) |
| | 02/04/2010 | MOTION OF APPELLANT TO ALLOW HIS REPLY BRIEF TO BE SUBMITTED INSTANTER FILED Attorney: SIRKIN, H LOUIS (0024573) |
| | 02/03/2010 | NOTICE OF ORAL ARGUMENT FILED. ORAL ARGUMENT WILL BE HELD MARCH 23, 2010 AT 10:30 AM. |
| | 01/26/2010 | MAGISTRATES ORDER FILED. CASE WILL BE SET FOR ORAL ARGUMENT. |
| | 01/26/2010 | MOTION OF APPELLANT FOR EXT TO FILE REPLY BRIEF FILED Attorney: SIRKIN, H LOUIS (0024573) |
| | 01/20/2010 | MOTION OF APPELLEE FOR ORAL ARGUMENT FILED Attorney: BRANDT, KIRSTEN A (0070162) |
| | 01/20/2010 | MAGISTRATES ORDER FILED. APPELLEE'S BRIEF SHALL BE ACCEPTED AS FILED ON JAN 12, 2010. |
| | 01/12/2010 | BRIEF OF APPELLEE FILED Attorney: BRANDT, KIRSTEN A (0070162) |
| | 01/12/2010 | MOTION OF APPELLEE TO FILE BRIEF INSTANTER FILED Attorney: BRANDT, KIRSTEN A (0070162) |
| | 01/12/2010 | MOTION OF APPELLEE FOR LEAVE TO EXCEED PAGE LIMITATION FILED Attorney: BRANDT, KIRSTEN A (0070162) |
| | 12/28/2009 | MOTION OF APPELLEE FOR EXT TO FILE BRIEF FILED Attorney: BRANDT, KIRSTEN A (0070162) |
| | 11/09/2009 | MAGISTRATES ORDER FILED. APPELLEE'S BRIEF IS DUE ON DECEMBER 28, 2009. |
| | 10/29/2009 | NOTICE OF CHANGE OF ADDRESS FOR H LOUIS SIRKIN, JENNIFER M KINSLEY AND SCOTT RYAN NAZZARINE. |
| | 10/23/2009 | MOTION OF APPELLEE FOR EXT TO FILE BRIEF FILED Attorney: BRANDT, KIRSTEN A (0070162) |
| | 10/14/2009 | MAGISTRATES ORDER FILED. CASE WILL BE SET FOR ORAL ARGUMENT. |
| | 10/07/2009 | MOTION OF APPELLANT FOR ORAL ARGUMENT FILED Attorney: SIRKIN, H LOUIS (0024573) |
| | 10/05/2009 | BRIEF OF APPELLANT FILED Attorney: SIRKIN, H LOUIS (0024573) |
| | 09/01/2009 | MAGISTRATES ORDER FILED. APPELLANT'S BRIEF IS DUE OCT 5, 2009. |
| | 08/20/2009 | MOTION OF APPELLANT FOR EXT TO FILE BRIEF FILED Attorney: SIRKIN, H LOUIS (0024573) |
| | 08/10/2009 | MOTION, ENTRY, AND CERTIFICATION FOR APPOINTED COUNSEL FEE FILED |
| | 08/07/2009 | TRANSCRIPT OF PROCEEDINGS FILED VOL IV |
| | 08/07/2009 | TRANSCRIPT OF PROCEEDINGS FILED VOL III |
| | 08/07/2009 | TRANSCRIPT OF PROCEEDINGS FILED VOL II |
| | 08/07/2009 | TRANSCRIPT OF PROCEEDINGS FILED - VOL 1 |

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|  | 08/05/2009 | MAGISTRATES ORDER FILED. APPELLANT'S BRIEF IS DUE SEPT 4, 2009. |
|  | 07/30/2009 | MAGISTRATES ORDER FILED. H LOUIS SIRKIN, JENNIFER KINSLEY & SCOTT NAZZARINE ARE COUNSEL OF RECORD FOR APPELLANT. |
|  | 07/21/2009 | MOTION OF APPELLANT FOR EXT TO FILE BRIEF FILED Attorney: SIRKIN, H LOUIS (0024573) |
|  | 07/20/2009 | CERTIFICATE OF MAILING - H LOUIS SIRKIN - 07/17/09 |
|  | 07/17/2009 | RECEIPT FILED FROM THE PROSECUTORS OFFICE - 07/16/09 |
|  | 07/16/2009 | RULE 11B NOTICE FILED COA - RULE 11(B) NOTICE Sent on: 07/16/2009 13:25:40 |
| | 07/16/2009 | 6 CD'S FILED (MOTION TO SUPPRESS PART 1 & 2, HEARING, JURY TRIAL AND SENTENCING) |
|  | 07/16/2009 | CRIMINAL SUMMARY OF DOCKET FILED |
|  | 07/15/2009 | RECORD OF APPEARANCE OF COUNSEL FILED. H LOUIS SIRKIN APPEARS FOR APPELLANT. |
|  | 07/06/2009 | APPOINTMENT OF COUNSEL (CPC) FILED APPOINTING J ALLEN WILMES AS COUNSEL ON APPEAL |
|  | 06/29/2009 | CRIMINAL DOCKET STATEMENT FILED - TR TO BE FILED - SUB COUNSEL REQUESTED |
|  | 06/29/2009 | NOTICE OF APPEAL FILED |
| | 06/28/2009 | CARLEY INGRAM 301 W THIRD STREET FIFTH FLOOR DAYTON, OH 45422 ATTORNEY FOR PLAINTIFF/APPELLEE H LOUIS SIRKIN JENNIFER KINSLEY SCOTT NAZZARINE 810 SYCAMORE ST SECOND FLOOR CINCINNATI, OH 45202 ATTORNEYS FOR DEFENDANT/APPELLANT |